

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MICHAEL HANNAH,

Case No. 2:19-cv-01944-APG-NJK

Plaintiff,

ORDER

v.

LOMBARDO, *et al.*,

Defendants.

This action is a *pro se* civil rights action filed under 42 U.S.C. § 1983 by a person in the custody of the Clark County Detention Center. On October 7, 2020, I dismissed the first amended complaint and granted the plaintiff leave to file a second amended complaint by November 9, 2020. ECF No. 11 at 8. That deadline has expired and Hannah has not filed a second amended complaint or otherwise responded to the order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply

1 with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack
2 of prosecution and failure to comply with local rules).

3 In determining whether to dismiss an action for lack of prosecution, failure to obey a
4 court order, or failure to comply with local rules, the court must consider: (1) the public's interest
5 in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of
6 prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits;
7 and (5) the availability of less drastic alternatives. *Thompson*, 782 F.2d at 831; *Henderson*, 779
8 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

9 Here, the first two factors (the public's interest in expeditiously resolving this litigation
10 and my interest in managing the docket) weigh in favor of dismissal. The third factor (risk of
11 prejudice to the defendants) also weighs in favor of dismissal because a presumption of injury
12 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
13 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
14 factor (public policy favoring disposition of cases on their merits) is greatly outweighed by the
15 factors in favor of dismissal discussed herein. Finally, a court's warning to a party that his
16 failure to obey an order will result in dismissal satisfies the "consideration of alternatives"
17 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d at
18 1424. My order requiring Hannah to file a second amended complaint within 30 days expressly
19 stated: "If Hannah does not file a timely second amended complaint, this action shall be
20 dismissed with prejudice for failure to state a claim." ECF No. 11 at 7-8. Thus, Hannah had
21 adequate warning that dismissal would result from his noncompliance.

1 I THEREFORE ORDER that this action is dismissed with prejudice based on Hannah's
2 failure to file a second amended complaint in compliance with my October 7, 2020 order and for
3 failure to state a claim.

4 I FURTHER ORDER the Clerk of Court to enter judgment accordingly and close this
5 case. No further documents shall be filed in this closed case.

6 I FURTHER CERTIFY that any *in forma pauperis* appeal from this order would not be
7 taken "in good faith" under 28 U.S.C. § 1915(a)(3).

8 DATED THIS 18th day of November, 2020.

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UNITED STATES DISTRICT JUDGE